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Attorney for Defendant
TASTES ON THE FLY SFO, LLC

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

ADRIAN YEPEZ, on behalf of himself and all other situated,

| Case No.

San Mateo County
Case No. 21-CIV-05010

Plaintiff,

vs.

TASTES ON THE FLY SFO, LLC.

**DEFENDANT TASTES ON THE FLY SFO,
LLC, OF REMOVAL OF ACTION UNDER
28 U.S.C. §§ 1331, 1441(a) (FEDERAL
QUESTION)**

Defendant.

Pursuant to 28 U.S. Code §§ 1441, 1446, 28 U.S.C. § 1331 and 28 U.S.C. § 1367, Defendant TASTES ON THE FLY SFO, INC. (hereinafter “Defendant”) hereby removes the action (hereinafter “Defendant”) hereby removes the action *Adrian Yepez, on Behalf of Himself and All Other Situated v. Tastes On The Fly SFO, LLC*, Case No.: 21-CIV-05010, from the California Superior Court, County of San Mateo to this Court on the following grounds:

1. On or about September 15, 2021, Plaintiff filed a civil class-action complaint (the "Complaint") in California Superior Court for the County of San Mateo. Defendant received a copy of the Complaint on September 30, 2021. The putative class is defined as all of Defendant's union-represented hourly wage employees. A copy of this Complaint, Summons,

1 Initial Case Management Order and Notice of Judicial Assignment are attached hereto as
2 **Exhibit A.**

3 **JURISDICTION**

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2. The Complaint includes claims over which the United States District Courts have original jurisdiction, pursuant to 28 U.S.C. § 1331 and federal question jurisdiction over this matter by reason of Section 301 of the Labor-Management Relations Act ("LMRA"), 29 U.S.C. § 185.
 3. Accordingly, this matter is removable under 28 U.S. Code § 1446.
 4. Furthermore, pursuant to 28 U.S.C. § 1367 this Court has supplemental jurisdiction over all other claims appearing in the Complaint that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy.
 5. To date, Defendant has not filed a responsive pleading.
 6. Defendant is represented in this action by counsel signing this Notice of Removal and consents to the removal of this action to United States District Court, Northern District of California.
 7. This Notice of Removal has been served on Plaintiffs and will be filed in California Superior Court for the County of San Mateo promptly following this filing of this Notice of Removal.

Dated: October 8, 2021

KAUFMAN DOLOWICH & VOLUCK, LLP



Arthur Gaus
Attorney for Defendant TASTES ON THE FLY SFO, LLC

4849-1340-1598, v. 1

EXHIBIT A



TO: Derek Watson
Tastes On The Fly Logan, LLC
235 E 3RD AVE STE 207
SAN MATEO, CA 94401-4094

RE: **Process Served in California**
FOR: Tastes on the Fly San Francisco, LLC (Domestic State: CA)

**Service of Process
Transmittal**
09/28/2021
CT Log Number 540323404

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION:	Re: ADRIAN YEPEZ, on behalf of himself and others similarly situated, // To: Tastes on the Fly San Francisco, LLC
DOCUMENT(S) SERVED:	--
COURT/AGENCY:	None Specified Case # 21CLV05010
NATURE OF ACTION:	Employee Litigation
ON WHOM PROCESS WAS SERVED:	C T Corporation System, GLENDALE, CA
DATE AND HOUR OF SERVICE:	By Process Server on 09/28/2021 at 01:19
JURISDICTION SERVED :	California
APPEARANCE OR ANSWER DUE:	None Specified
ATTORNEY(S) / SENDER(S):	None Specified
ACTION ITEMS:	CT has retained the current log, Retain Date: 09/28/2021, Expected Purge Date: 10/03/2021 Image SOP Email Notification, Derek Watson derek.watson@tastesonthefly.com
REGISTERED AGENT ADDRESS:	C T Corporation System 330 N BRAND BLVD STE 700 GLENDALE, CA 91203 877-467-3525 SmallBusinessTeam@wolterskluwer.com

The information contained in this Transmittal is provided by CT for quick reference only. It does not constitute a legal opinion, and should not otherwise be relied on, as to the nature of action, the amount of damages, the answer date, or any other information contained in the included documents. The recipient(s) of this form is responsible for reviewing and interpreting the included documents and taking appropriate action, including consulting with its legal and other advisors as necessary. CT disclaims all liability for the information contained in this form, including for any omissions or inaccuracies that may be contained therein.



PROCESS SERVER DELIVERY DETAILS

Date: Tue, Sep 28, 2021

Server Name: Bernard Richards

Entity Served TASTES ON THE FLY SAN FRANCISCO, LLC

Case Number 21-CIV-05010

Jurisdiction CA



SUMMONS
(CITACION JUDICIAL)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

TASTES ON THE FLY SAN FRANCISCO, LLC; and DOES 1 to 100, inclusive,

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

ADRIAN YEPEZ, on behalf of himself and others similarly situated,

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

AVISO! *Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.*

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): Southern Branch: Hall of Justice

400 County Center, Room A
Redwood City, CA 94063

CASE NUMBER:
(Número del Caso): 21-CIV-05010

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Roman Otkupman: 5743 Corsa Ave., Suite 123, Westlake Village, CA 91362; (818)293-5623

DATE: 9/16/2021
(Fecha)

Neal I. Taniguchi

Clerk, by
(Secretario)

/s/ Anthony Berini

, Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. as an individual defendant.
2. as the person sued under the fictitious name of (specify):

3. on behalf of (specify): Tastes On The Fly San Francisco, LLC

under:	<input type="checkbox"/>	CCP 416.10 (corporation)	<input type="checkbox"/>	CCP 416.60 (minor)
	<input type="checkbox"/>	CCP 416.20 (defunct corporation)	<input type="checkbox"/>	CCP 416.70 (conservatee)
	<input type="checkbox"/>	CCP 416.40 (association or partnership)	<input type="checkbox"/>	CCP 416.90 (authorized person)

3. on behalf of (specify): LLC

4. by personal delivery on (date):



SUMMONS

Electronically**FILED**

by Superior Court of California, County of San Mateo

ON 9/16/2021

By /s/ Anthony Berini
Deputy Clerk

1 Joseph Lavi, Esq. (SBN 209776)
 2 Vincent C. Granberry, Esq. (SBN 276483)
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 10 Telephone: (818) 293-5623
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11 Attorneys for Plaintiff ADRIAN YEPEZ,
 12 on behalf of himself and others similarly situated

13

14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

15 **FOR THE COUNTY OF SAN MATEO**

16 ADRIAN YEPEZ, on behalf of himself and
 17 others similarly situated,

18 Plaintiff,

19 vs.

20 TASTES ON THE FLY SAN FRANCISCO,
 LLC; and DOES 1 to 100, inclusive,

21 Defendants.

22 Case No.: 21-CIV-05010

23 **CLASS ACTION**

24 **PLAINTIFF ADRIAN YEPEZ'S
 25 COMPLAINT FOR DAMAGES AND
 RESTITUTION FOR:**

- 26 **1. FAILURE TO PAY WAGES FOR
 ALL HOURS WORKED AT
 MINIMUM WAGE IN
 VIOLATION OF LABOR CODE
 SECTIONS 1194 AND 1197**
- 27 **2. FAILURE TO PAY OVERTIME
 WAGES FOR DAILY OVERTIME
 WORKED IN VIOLATION OF
 LABOR CODE SECTIONS 510 AND
 1194**
- 28 **3. FAILURE TO AUTHORIZE OR
 PERMIT MEAL PERIODS IN
 VIOLATION OF LABOR CODE
 SECTIONS 512 AND 226.7**

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- 4. FAILURE TO AUTHORIZE OR PERMIT REST PERIODS IN VIOLATION OF LABOR CODE SECTION 226.7**
 - 5. FAILURE TO PROVIDE COMPLETE AND ACCURATE WAGE STATEMENTS IN VIOLATION OF LABOR CODE SECTION 226**
 - 6. FAILURE TO TIMELY PAY ALL EARNED WAGES AND FINAL PAYCHECKS DUE AT TIME OF SEPARATION OF EMPLOYMENT IN VIOLATION OF LABOR CODE SECTIONS 201, 202, AND 203**
 - 7. UNFAIR BUSINESS PRACTICES, IN VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTIONS 17200, ET SEQ.**

DEMAND FOR JURY TRIAL

COMES NOW Plaintiff ADRIAN YEPEZ (“Plaintiff”), who alleges and complains against Defendants TASTES ON THE FLY SAN FRANCISCO, LLC; and DOES 1 to 100, inclusive (collectively “Defendants”) as follows:

I. INTRODUCTION

1. This is a class action lawsuit seeking unpaid wages and interest thereon for failure to pay wages for all hours worked at minimum wage; failure to pay for overtime hours worked at the overtime rate; failure to authorize or permit all legally required and/or compliant meal periods and/or pay meal period premium wages; failure to authorize or permit all legally required and/or compliant rest periods and/or pay rest period premium wages; statutory penalties for failure to provide accurate wage statements; statutory waiting time penalties in the form of continuation wages for failure to timely pay employees all wages due upon separation of employment; injunctive relief and other equitable relief; reasonable attorneys’ fees pursuant to Labor Code sections 218.5, 226(e) and 1194; costs; and interest brought on behalf of Plaintiff and others similarly situated.

///

1 **II. JURISDICTION AND VENUE**

2 2. This Court has jurisdiction over Plaintiff's and putative class members' claims for
 3 failure to pay wages for all hours worked at minimum wage; failure to pay for overtime hours
 4 worked at the overtime rate of pay; failure to authorize or permit all legally required and/or
 5 compliant meal periods and/or pay meal period premium wages; failure to authorize or permit all
 6 legally required and/or compliant rest periods and/or pay rest period premium wages; statutory
 7 penalties for failure to provide accurate wage statements; statutory waiting time penalties in the
 8 form of continuation wages for failure to timely pay employees all wages due upon separation of
 9 employment; and claims for injunctive relief and restitution under California Business and
 10 Professions Code sections 17200, *et seq.*, for the following reasons: Defendants operate
 11 throughout California; Defendants employed Plaintiff and putative class members in locations
 12 throughout California, including but not limited to San Mateo County, at 235 East 3rd Avenue,
 13 Suite 207, San Mateo, California 94401; more than two-thirds of putative class members are
 14 California citizens; the principal violations of California law occurred in California; no other class
 15 actions have been filed against Defendants in the last four (4) years alleging wage and hour
 16 violations; the conduct of Defendants forms a significant basis for Plaintiff's and putative class
 17 members' claims; and Plaintiff and putative class members seek significant relief from
 18 Defendants.

19 **III. PARTIES**

20 3. Plaintiff brings this action on behalf of himself and other members of the general
 21 public similarly situated. The named Plaintiff and the class of persons on whose behalf this action
 22 is filed are current, former, and/or future employees of Defendants who work as hourly non-
 23 exempt employees. At all times mentioned herein, the currently named Plaintiff is and was a
 24 resident of California and was employed by Defendants in the State of California within the four
 25 (4) years prior to the filing of this Complaint.

26 4. Defendants formerly employed Plaintiff as an hourly non-exempt employee.

27 5. Plaintiff is informed and believes and thereon alleges that Defendant employed him
 28 and other hourly non-exempt employees throughout the State of California and therefore their

1 conduct forms a significant basis of the claims asserted in this matter.

2 6. Plaintiff is informed and believes and thereon alleges that Defendant TASTES ON
 3 THE FLY SAN FRANCISCO, LLC is authorized to do business within the State of California and
 4 is doing business in the State of California and/or that Defendants DOES 1-50 are, and at all times
 5 relevant hereto were persons acting on behalf of Defendant TASTES ON THE FLY SAN
 6 FRANCISCO, LLC in the establishment of, or ratification of, the aforementioned illegal wage and
 7 hour practices or policies. Defendant TASTES ON THE FLY SAN FRANCISCO, LLC operates
 8 in San Mateo County and employed Plaintiff and putative class members in San Mateo County,
 9 including but not limited to, at 235 East 3rd Avenue, Suite 207, San Mateo, California 94401.

10 7. Plaintiff is informed and believes and thereon alleges that Defendants DOES 51-
 11 100 are individuals unknown to Plaintiff. Each of the individual Defendants is sued individually in
 12 his or her capacity as an agent, shareholder, owner, representative, supervisor, independent
 13 contractor and/or employee of each Defendant and participated in the establishment of, or
 14 ratification of, the aforementioned illegal wage and hour practices or policies.

15 8. Plaintiff is unaware of the true names of Defendants DOES 1-100. Plaintiff sues
 16 said defendants by said fictitious names and will amend this Complaint when the true names and
 17 capacities are ascertained or when such facts pertaining to liability are ascertained, or as permitted
 18 by law or by the Court. Plaintiff is informed and believes that each of the fictitiously named
 19 Defendants is in some manner responsible for the events and allegations set forth in this
 20 Complaint.

21 9. Plaintiff is informed and believes and thereon alleges that at all relevant times, each
 22 Defendant was an employer, was the principal, agent, partner, joint venturer, officer, director,
 23 controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or
 24 predecessor in interest of some or all of the other Defendants, and was engaged with some or all of
 25 the other defendants in a joint enterprise for profit, and bore such other relationships to some or all
 26 of the other defendants so as to be liable for their conduct with respect to the matters alleged in
 27 this Complaint. Plaintiff is further informed and believe and thereon allege that each Defendant
 28 acted pursuant to and within the scope of the relationships alleged above, and that at all relevant

1 times, each Defendant knew or should have known about, authorized, ratified, adopted, approved,
 2 controlled, aided and abetted the conduct of all other defendants. As used in this Complaint,
 3 "Defendant" means "Defendants and each of them," and refers to the Defendants named in the
 4 particular cause of action in which the word appears and includes Defendants TASTES ON THE
 5 FLY SAN FRANCISCO, LLC and DOES 1 to 100, inclusive.

6 10. At all times mentioned herein, each Defendant was the co-conspirator, agent,
 7 servant, employee, and/or joint venturer of each of the other defendants and was acting within the
 8 course and scope of said conspiracy, agency, employment, and/or joint venture and with the
 9 permission and consent of each of the other Defendants.

10 11. Plaintiff makes the allegations in this Complaint without any admission that, as to
 11 any particular allegation, Plaintiff bears the burden of pleading, proving, or persuading and
 12 Plaintiff reserves all of Plaintiff's rights to plead in the alternative.

13 **IV. DESCRIPTION OF ILLEGAL PAY PRACTICES**

14 12. Pursuant to the applicable Industrial Welfare Commission ("IWC") Wage Order
 15 ("Wage Order"), codified at California Code of Regulations, title 8, section 11050, Defendants are
 16 employers of Plaintiff within the meaning of Wage Order 5 and applicable Labor Code sections.
 17 Therefore, each of these Defendants is jointly and severally liable for the wrongs complained of
 18 herein in violation of the Wage Order and the Labor Code.

19 13. **Failure to pay wages for all hours worked at the legal minimum wage:**
 20 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
 21 employees. In California, an employer is required to pay hourly employees for all "hours worked,"
 22 which includes all time that an employee is under the control of the employer and all time the
 23 employee is suffered and permitted to work. This includes the time an employee spends, either
 24 directly or indirectly, performing services which inure to the benefit of the employer.

25 14. Labor Code sections 1194 and 1197 require an employer to compensate employees
 26 for all "hours worked" at least at the minimum wage rate of pay as established by the IWC and the
 27 Wage Orders.

28 15. Plaintiff and similarly situated hourly non-exempt employees worked more minutes

1 per shift than Defendants credited them with having worked. Defendants failed to pay Plaintiff
 2 and similarly situated employees all wages at the applicable minimum wage for all hours worked
 3 due to Defendants' policies, practices, and/or procedures including, but not limited to, the
 4 following: 

5 (a) Requiring Plaintiff and similarly situated employees to line up to wait to
 6 undergo and to undergo off-the-clock security checks prior to being permitted to clock in for the
 7 start of their shifts;

8 (b) After the aforementioned security checks, Defendants required Plaintiff and
 9 similarly situated employees to travel while they were off-the-clock from the security checkpoint
 10 to the timeclock where they were to clock in for the start of their shifts; and

11 (c) Routinely requiring Plaintiff and similarly situated employees to perform
 12 work-related tasks while they were off-the-clock during meal breaks, and after clocking out for the
 13 end of their shifts, without compensation.

14 16. Plaintiff and similarly situated employees were not paid for this time resulting in
 15 Defendants' failure to pay wages for all the hours Plaintiff and similarly situated employees
 16 worked.

17 17. Therefore, Defendants suffered, permitted, and required their hourly non-exempt
 18 employees to be subject to Defendants' control without paying wages for that time. This resulted
 19 in Plaintiff and similarly situated employees working time for which they were not compensated
 20 any wages, in violation of Labor Code sections 1194, 1197, and Wage Order 5.

21 18. **Failure to pay wages for overtime hours worked at the overtime rate of pay:**
 22 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
 23 employees. In California, an employer is required to pay hourly employees for all "hours worked,"
 24 which includes all time that an employee is under the control of the employer and all time the
 25 employee is suffered or permitted to work. This includes the time an employee spends, either
 26 directly or indirectly, performing services which inure to the benefit of the employer.

27 19. Labor Code sections 510 and 1194 and Wage Order 5 require an employer to
 28 compensate employees at a higher rate of pay for hours worked in excess of eight (8) hours in a

1 workday, more than forty (40) hours in a workweek, and on any seventh consecutive day of work
 2 in a workweek:

3 Any work in excess of eight hours in one workday and any work in excess of 40
 4 hours in any one workweek and the first eight hours worked on the seventh day of
 5 work in any one workweek shall be compensated at the rate of no less than one and
 6 one-half times the regular rate of pay for an employee. Any work in excess of 12
 7 hours in one day shall be compensated at the rate of no less than twice the regular
 8 rate of pay for an employee. In addition, any work in excess of eight hours on any
 9 seventh day of a workweek shall be compensated at the rate of no less than twice
 10 the regular rate of pay of an employee.

11 Labor Code section 510; Wage Order 5, §3.

12 20. Defendants failed to pay Plaintiff and similarly situated employees all wages at the
 13 applicable minimum wage for all hours worked due to Defendants' policies, practices, and/or
 14 procedures including, but not limited to, the following:

15 (a) Requiring Plaintiff and similarly situated employees to line up to wait to
 16 undergo and to undergo off-the-clock security checks prior to being permitted to clock in for the
 17 start of their shifts;

18 (b) After the aforementioned security checks, Defendants required Plaintiff and
 19 similarly situated employees to travel while they were off-the-clock from the security checkpoint
 20 to the timeclock where they were to clock in for the start of their shifts; and

21 (c) Routinely requiring Plaintiff and similarly situated employees to perform
 22 work-related tasks while they were off-the-clock during meal breaks, and after clocking out for the
 23 end of their shifts, without compensation.

24 21. Plaintiff and similarly situated employees were not paid for this time resulting in
 25 Defendants' failure to pay wages for all the hours Plaintiff and similarly situated employees
 26 worked.

27 22. To the extent Plaintiff and similarly situated employees had already worked 8 hours
 28 in the day and/or on workweeks they had already worked 40 hours in a workweek and/or seven (7)
 days in a workweek, when this uncompensated time occurred, the employees should have been
 paid overtime for this unpaid time. This resulted in Plaintiff and similarly situated employees
 working time which should have been paid at the legal overtime rate but was not paid any wages

1 in violation of Labor Code sections 510, 1194, and Wage Order 5.

2 23. Defendants' foregoing policies, practices, and/or procedures resulted in Defendants
3 failing to pay Plaintiff and similarly situated employees for all overtime hours worked, in violation
4 of Labor Code sections 510, 1194, 1198, and Wage Order. 23

5 24. **Failure to authorize or permit all legally required and compliant meal periods
6 and/or failure to pay meal period premium wages:** Defendants often employed hourly non-
7 exempt employees, including the named Plaintiff and similarly situated employees, for shifts
8 longer than five (5) hours in length and shifts longer than ten (10) hours in length.

9 25. California law requires an employer to authorize or permit an uninterrupted meal
10 period of no less than thirty (30) minutes no later than the end of the employee's fifth hour of
11 work and a second meal period no later than the employee's tenth hour of work. Labor Code §512;
12 Wage Order 5, §11. If the employee is not relieved of all duties during a meal period, the meal
13 period shall be considered an "on duty" meal period and counted as time worked. A paid "on
14 duty" meal period is only permitted when (1) the nature of the work prevents an employee from
15 being relieved of all duty and (2) the parties have a written agreement agreeing to on-duty meal
16 periods. If the employee is not free to leave the work premises or worksite during the meal period,
17 even if the employee is relieved of all other duty during the meal period, the employee is subject
18 to the employer's control and the meal period is counted as time worked. If an employer fails to
19 provide an employee a meal period in accordance with the law, the employer must pay the
20 employee one (1) hour of pay at the employee's regular rate of pay for each workday that a legally
21 required and compliant meal period was not provided. Labor Code §226.7; Wage Order 5, §11.

22 26. Here, Plaintiff and similarly situated employees worked shifts long enough to
23 entitle them to meal periods under California law. Nevertheless, Defendants employed systemic
24 company policies, practices, and/or procedures that resulted in their failure to authorize or permit
25 meal periods to Plaintiff and similarly situated employees of no less than thirty (30) minutes for
26 each five-hour period of work as required by law. Such policies, practices, and/or procedures
27 included, but were not limited to, pressuring and/or requiring Plaintiff and similarly situated
28 employees to work without receiving meal periods. Furthermore, on occasions Defendants did

1 provide meal periods to Plaintiff and similarly situated employees, they were frequently
 2 interrupted, untimely, taken while performing work-related tasks, and/or shorter than thirty (30)
 3 minutes in violation of California law.

4 27. Additionally, Defendants failed to pay Plaintiff and similarly situated employees a
 5 meal period premium wage of one (1) additional hour of pay at their regular rate of compensation
 6 for each workday the employees did not receive all legally required and compliant meal periods.
 7 Defendants employed policies and procedures which ensured that employees did not receive any
 8 meal period premium wages to compensate them for workdays in which they did not receive all
 9 legally required and compliant meal periods.

10 28. The aforementioned policies, practices, and/or procedures of Defendants resulted in
 11 Plaintiff and similarly situated employees not being provided with all legally required and
 12 compliant meal periods and/or not receiving premium wages to compensate them for such
 13 instances, all in violation of California law.

14 29. **Failure to authorize and permit all legally required and compliant rest periods
 15 and/or failure to pay rest period premiums:** Defendants often employed non-exempt
 16 employees, including the named Plaintiff and similarly situated employees, for shifts of least
 17 three-and-a-half (3.5) hours.

18 30. California law requires every employer to authorize and permit an employee a rest
 19 period of ten (10) net minutes for every four (4) hours worked or major fraction thereof. Labor
 20 Code §226.7; Wage Order 5, §12. If the employer fails to authorize or permit a required rest
 21 period, the employer must pay the employee one (1) hour of pay at the employee's regular rate of
 22 compensation for each workday the employer did not authorize or permit a legally required rest
 23 period. *Id.* Under California law, “[e]mployees are entitled to 10 minutes' rest for shifts from three
 24 and one-half to six hours in length, 20 minutes for shifts of more than six hours up to 10 hours, 30
 25 minutes for shifts of more than 10 hours up to 14 hours, and so on.” *Brinker Restaurant Corp. v.*
 26 *Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor Code §226.7; Wage Order 5, §12. Rest
 27 periods, insofar as practicable, shall be in the middle of each work period. Wage Order 5, §12.
 28 Additionally, the rest period requirement “obligates employers to permit – and authorizes

1 employees to take – off-duty rest periods.” *Augustus v. ABM Security Services, Inc.*, (2016) 5
 2 Cal.5th 257, 269. That is, during rest periods employers must relieve employees of all duties and
 3 relinquish control over how employees spend their time. *Id.*

4 ¶ 31. In this case, Plaintiff and similarly situated employees regularly worked shifts of
 5 more than three-and-a-half (3.5) hours. Nevertheless, Defendants employed systemic company
 6 policies, practices, and/or procedures that resulted in their failure to authorize or permit all legally
 7 required and/or legally compliant rest periods to Plaintiff and similarly situated employees. Such
 8 policies, practices, and/or procedures included, but were not limited to, pressuring and/or
 9 requiring Plaintiff and similarly situated employees to work without receiving rest periods.
 10 Furthermore, when Defendants did provide meal periods to Plaintiff and similarly situated
 11 employees, they were frequently interrupted, untimely, taken while performing work-related tasks,
 12 and/or shorter than ten (10) minutes in violation of California law.

13 32. Additionally, Defendants failed to pay Plaintiff and similarly situated employees a
 14 rest period premium wage of one (1) additional hour of pay at their regular rate of compensation
 15 for each workday the employees did not receive all legally required and compliant rest periods.
 16 Defendants employed policies and procedures which ensured that employees did not receive any
 17 rest period premium wages to compensate them for workdays in which they did not receive all
 18 legally required and compliant rest periods.

19 33. The aforementioned policies, practices, and/or procedures of Defendants resulted in
 20 Plaintiff and similarly situated employees not being provided with all legally required and
 21 compliant rest periods and/or not receiving premium wages to compensate them for such instances
 22 all in violation of California law.

23 34. **Failure to provide accurate wage statements:** Labor Code section 226(a)
 24 provides, *inter alia*, that, upon paying an employee his or her wages, the employer must “furnish
 25 each of his or her employees ... an itemized statement in writing showing (1) gross wages earned,
 26 (2) total hours worked by the employee, except for any employee whose compensation is solely
 27 based on a salary and who is exempt from payment of overtime under subdivision (a) of Section
 28 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate

1 units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all
 2 deductions, provided, that all deductions made on written orders of the employee may be
 3 aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the pay period
 4 for which the employee is paid, (7) the name of the employee and his or her social security
 5 number, (8) the name and address of the legal entity that is the employer, and (9) all applicable
 6 hourly rates in effect during the pay period and the corresponding number of hours worked at each
 7 hourly rate by the employee.”

8 35. Defendants committed direct violations of Labor Code section 226, through their
 9 policies, practices, and/or procedures, including, but not limited to failing to provide Plaintiff and
 10 other similarly situated employees accurate itemized wage statements showing the rate at which
 11 premium wages were paid.

12 36. As a derivative of Plaintiff’s claims above, Plaintiff alleges that Defendants failed
 13 to provide accurate wage and hour statements to him and other similarly situated employees who
 14 were subject to Defendants’ control for uncompensated time and who did not receive all their
 15 earned wages (including minimum wages, overtime wages, meal period premium wages, and/or
 16 rest period premium wages), in violation of Labor Code section 226.

17 37. **Failure to timely pay final wages:** An employer is required to pay all unpaid
 18 wages timely after an employee’s employment ends. The wages are due immediately upon
 19 termination or within seventy-two (72) hours of resignation. Labor Code §§201, 202.

20 38. As a result of the aforementioned violations of the Labor Code, Plaintiff alleges
 21 that he, and on information and belief, other similarly situated employees, were not paid their final
 22 wages in a timely manner as required by Labor Code section 203. Minimum wages, overtime
 23 wages, meal period premium wages, and/or rest period premium wages (all described above) were
 24 not paid at the time of Plaintiff’s and other similarly situated employees’ separation of
 25 employment, whether voluntarily or involuntarily, as required by Labor Code sections 201, 202,
 26 and 203.

27 V. **CLASS DEFINITIONS AND CLASS ALLEGATIONS**

28 39. Plaintiff brings this action on behalf of himself, on behalf of others similarly

1 situated, and on behalf of the general public, and as members of a Class defined as follows:

2 **A. Minimum Wage Class:** All current and former hourly non-exempt
 3 employees employed by Defendants in California at any time from four (4) years prior to the filing
 4 of the initial Complaint in this matter through the date notice is mailed to a certified class who
 5 were not paid at least minimum wage for all time they were subject to Defendants' control.

6 **B. Overtime Class:** All current and former hourly non-exempt employees
 7 employed by Defendants in California at any time from four (4) years prior to the filing of the
 8 initial Complaint in this matter through the date notice is mailed to a certified class who worked
 9 more than eight (8) hours in a workday, forty (40) hours in a workweek, and/or seven (7) days in a
 10 workweek, to whom Defendants did not pay overtime wages.

11 **C. Meal Period Class:** All current and former hourly non-exempt employees
 12 employed by Defendants in California at any time from four (4) years prior to the filing of the
 13 initial Complaint in this matter through the date notice is mailed to a certified class who worked
 14 shifts more than five (5) hours yet Defendants failed to authorize or permit all required duty-free
 15 meal periods of not less than thirty (30) minutes.

16 **D. Rest Period Class:** All current and former hourly non-exempt employees
 17 employed by Defendants in California at any time from four (4) years prior to the filing of the
 18 initial Complaint in this matter through the date notice is mailed to a certified class who worked
 19 shifts of at least three-and-a-half (3.5) hours who did not receive all required duty-free rest periods
 20 of a net ten (10) minutes for every four (4) hours worked or major fraction thereof.

21 **E. Wage Statement Class:** All current and former hourly non-exempt
 22 employees employed by Defendants in California at any time from one (1) year prior to the filing
 23 of the initial Complaint in this action through the date notice is mailed to a certified class who
 24 received inaccurate or incomplete wage and hour statements.

25 **F. Waiting Time Class:** All current and former hourly non-exempt employees
 26 employed by Defendants in California at any time from three (3) years prior to the filing of the
 27 initial Complaint in this action through the date notice is mailed to a certified class who did not
 28 receive payment of all unpaid wages upon separation of employment within the statutory time

1 period.

2 **G. California Class:** All aforementioned classes are herein collectively
 3 referred to as the “California Class.”

4 40. There is a well-defined community of interest in the litigation and the classes are
 5 ascertainable:

6 A. **Numerosity:** While the exact number of class members in each class is
 7 unknown to Plaintiff at this time, the Plaintiff classes are so numerous that the individual joinder
 8 of all members is impractical under the circumstances of this case.

9 B. **Common Questions Predominate:** Common questions of law and fact
 10 exist as to all members of the Plaintiff classes and predominate over any questions that affect only
 11 individual members of each class. The common questions of law and fact include, but are not
 12 limited to:

13 i. Whether Defendants violated Labor Code sections 1194 and 1197
 14 by not paying wages at the minimum wage rate for all time that the Minimum Wage Class
 15 Members were subject to Defendants’ control;

16 ii. Whether Defendants violated Labor Code sections 510 and 1194 by
 17 not paying the Overtime Class Members at the applicable overtime rate for working in excess of
 18 eight (8) hours in a workday, in excess of forty (40) hours in a workweek, and/or seven (7) days in
 19 a workweek;

20 iii. Whether Defendants violated Labor Code sections 512 and 226.7, as
 21 well as the applicable Wage Order, by employing the Meal Period Class Members without
 22 providing all compliant and/or required meal periods and/or paying meal period premium wages;

23 iv. Whether Defendants violated Labor Code section 226.7 by
 24 employing the Rest Period Class Members without providing all compliant and/or required rest
 25 periods and/or paying rest period premium wages;

26 v. Whether Defendants failed to provide the Wage Statement Class
 27 Members with accurate itemized statements at the time they received their itemized statements;

28 vi. Whether Defendants failed to provide the Waiting Time Class

1 Members with all of their earned wages upon separation of employment within the statutory time
 2 period;

3 vii. Whether Defendants committed unlawful business acts or practice
 4 within the meaning of Business and Professions Code sections 17200, *et seq.*;

5 viii. Whether Class Members are entitled to unpaid wages, penalties, and
 6 other relief pursuant to their claims;

7 ix. Whether, as a consequence of Defendants' unlawful conduct, the
 8 Class Members are entitled to restitution, and/or equitable relief; and

9 x. Whether Defendants' affirmative defenses, if any, raise any common
 10 issues of law or fact as to Plaintiff and as to Class Members as a whole.

11 C. **Typicality:** Plaintiff's claims are typical of the claims of the class members
 12 in each of the classes. Plaintiff and members of the Minimum Wage Class sustained damages
 13 arising out of Defendants' failure to pay wages at least at minimum wage for all time the
 14 employees were subject to Defendants' control. Plaintiff and members of the Overtime Wage
 15 Class sustained damages arising out of Defendants' failure to pay overtime wages for overtime
 16 hours worked. Plaintiff and members of the Meal Period Class sustained damages arising out of
 17 Defendants' failure to provide non-exempt employees with all required meal periods and/or meal
 18 periods that were duty-free and not less than thirty (30) minutes and/or failure to pay meal period
 19 premium wages as compensation. Plaintiff and members of the Rest Period Class sustained
 20 damages arising out of Defendants' failure to provide non-exempt employees with all required rest
 21 periods and/or rest periods that were duty-free and of a net ten (10) minutes and/or failure to pay
 22 rest period premium wages as compensation. Plaintiff and members of the Wage Statement Class
 23 sustained damages arising out of Defendants' failure to furnish them with accurate itemized wage
 24 statements in compliance with Labor Code section 226. Plaintiff and members of the Waiting
 25 Time Class sustained damages arising out of Defendants' failure to provide all unpaid yet earned
 26 wages due upon separation of employment within the statutory time limit.

27 D. **Adequacy of Representation:** Plaintiff will fairly and adequately protect
 28 the interests of the members of each class. Plaintiff has no interest that is adverse to the interests

1 of the other class members.

2 **E. Superiority:** A class action is superior to other available means for the fair
 3 and efficient adjudication of this controversy. Because individual joinder of all members of each
 4 class is impractical, class action treatment will permit a large number of similarly situated persons
 5 to prosecute their common claims in a single forum simultaneously, efficiently, and without the
 6 unnecessary duplication of effort and expense that numerous individual actions would engender.
 7 The expenses and burdens of individual litigation would make it difficult or impossible for
 8 individual members of each class to redress the wrongs done to them, while important public
 9 interests will be served by addressing the matter as a class action. The cost to and burden on the
 10 court system of adjudication of individualized litigation would be substantial, and substantially
 11 more than the costs and burdens of a class action. Individualized litigation would also present the
 12 potential for inconsistent or contradictory judgments.

13 **F. Public Policy Consideration:** Employers throughout the state violate wage
 14 and hour laws. Current employees often are afraid to assert their rights out of fear of direct or
 15 indirect retaliation. Former employees fear bringing actions because they perceive their former
 16 employers can blacklist them in their future endeavors with negative references or by other means.
 17 Class actions provide the class members who are not named in the Complaint with a type of
 18 anonymity that allows for vindication of their rights.

19 **FIRST CAUSE OF ACTION**

20 **FAILURE TO PAY WAGES FOR ALL HOURS OF WORK AT THE LEGAL MINIMUM
 21 WAGE RATE IN VIOLATION OF LABOR CODE SECTIONS 1194 AND 1197**

22 **(Against All Defendants by Plaintiff and the Minimum Wage Class)**

- 23 41. Plaintiff incorporates all paragraphs above as though fully set forth herein.
- 24 42. At all times relevant to this Complaint, Plaintiff and the Minimum Wage Class
 25 were hourly non-exempt employees of Defendants.
- 26 43. Pursuant to Labor Code sections 1194, 1197, and the Wage Order, Plaintiff and the
 27 Minimum Wage Class are entitled to receive wages for all hours worked, i.e., all time they were
 28 subject to Defendants' control, and those wages must be paid at least at the minimum wage rate in

effect during the time the employees earned the wages.

44. Defendants' policies, practices, and/or procedures required Plaintiff and the Minimum Wage Class to be engaged, suffered, or permitted to work without being paid wages for all of the time in which they were subject to Defendants' control. 

45. Defendants employed policies, practices, and/or procedures including, but not limited to, the following:

(a) Requiring Plaintiff and the Minimum Wage Class to line up to wait to undergo and to undergo off-the-clock security checks prior to being permitted to clock in for the start of their shifts;

(b) After the aforementioned security checks, Defendants required Plaintiff and the Minimum Wage Class to travel while they were off-the-clock from the security checkpoint to the timeclock where they were to clock in for the start of their shifts; and

(c) Routinely requiring Plaintiff and the Minimum Wage Class to perform work-related tasks while they were off-the-clock during meal breaks, and after clocking out for the end of their shifts, without compensation.

46. Plaintiff and the Minimum Wage Class were not paid for this time resulting in Defendants' failure to pay minimum wages for all the hours Plaintiff and the Minimum Wage Class worked.

47. As a result of Defendants' unlawful conduct, Plaintiff and the Minimum Wage Class have suffered damages in an amount subject to proof, to the extent that they were not paid wages at a minimum wage rate for all hours worked.

48. Pursuant to Labor Code sections 1194 and 1194.2, Plaintiff and the Minimum Wage Class are entitled to recover unpaid minimum wage, interest thereon, liquidated damages in the amount of their unpaid minimum wage, and attorneys' fees and costs.

SECOND CAUSE OF ACTION

FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF LABOR CODE SECTIONS

510 and 1194

(Against All Defendants by Plaintiff and the Overtime Class)

1 49. Plaintiff incorporates all paragraphs above as though fully set forth herein.

2 50. At times relevant to this Complaint, Plaintiff and the Overtime Class were hourly
3 non-exempt employees of Defendants, covered by Labor Code sections 510 and 1194 and Wage
4 Order 5. —

5 51. Pursuant to Labor Code sections 510 and 1194 and Wage Order 5, hourly non-
6 exempt employees are entitled to receive a higher rate of pay for all hours worked in excess of
7 eight (8) hours in a workday, forty (40) hours in a workweek, and on the seventh day of work in a
8 workweek.

9 52. Labor Code section 510, subdivision (a), states in relevant part:

10 “Eight hours of labor constitutes a day's work. Any work in excess of eight hours
11 in one workday and any work in excess of 40 hours in any one workweek and the
12 first eight hours worked on the seventh day of work in any one workweek shall be
13 compensated at the rate of no less than one and one-half times the regular rate of
14 pay for an employee. Any work in excess of 12 hours in one day shall be
15 compensated at the rate of no less than twice the regular rate of pay for an
16 employee. In addition, any work in excess of eight hours on any seventh day of a
17 workweek shall be compensated at the rate of no less than twice the regular rate
18 of pay of an employee. Nothing in this section requires an employer to combine
19 more than one rate of overtime compensation in order to calculate the amount to
20 be paid to an employee for any hour of overtime work.”

21 53. Despite California law requiring employers to pay employees a higher rate of pay
22 for all hours worked more than eight (8) hours in a workday, more than forty (40) hours in a
23 workweek, and on the seventh day of work in a workweek, Defendants failed to pay all overtime
24 wages to Plaintiff and the Overtime Class for their daily overtime hours worked.

25 54. Specifically, Defendants' employed policies, practices, and/or procedures
26 including, but not limited to, the following:

27 (a) Requiring Plaintiff and Overtime Class members to line up to wait to
28 undergo and to undergo off-the-clock security checks prior to being permitted to clock in for the
start of their shifts;

(b) After the aforementioned security checks, Defendants required Plaintiff and
the Overtime Class to travel while they were off-the-clock from the security checkpoint to the
timeclock where they were to clock in for the start of their shifts; and

(c) Routinely requiring Plaintiff and the Overtime Class to perform work-related tasks while they were off-the-clock during meal breaks, and after clocking out for the end of their shifts, without compensation.

55. Plaintiff and the Overtime Class were not paid for this time resulting in Defendants' failure to pay wages for all the hours Plaintiff and the Overtime Class worked.

56. To the extent that the foregoing unpaid time resulted from Plaintiff and the Overtime Class being subject to the control of Defendants when they worked more than eight (8) hours in a workday, more than forty (40) hours in a workweek, and/or seven days in a workweek, Defendants failed to pay them at their overtime rate of pay for all the overtime hours they worked.

57. As a result of Defendants' unlawful conduct, Plaintiff and the Overtime Class have suffered damages in an amount subject to proof, to the extent that they were not paid at their overtime rate of pay for all hours worked which constitute overtime.

58. Pursuant to Labor Code section 1194, Plaintiff and the Overtime Class are entitled to recover the full amount of their unpaid overtime wages, prejudgment interest, and attorneys' fees and costs

THIRD CAUSE OF ACTION

FAILURE TO AUTHORIZE OR PERMIT MEAL PERIODS IN VIOLATION OF LABOR

CODE SECTIONS 512 AND 226.7

(Against All Defendants by Plaintiff and the Meal Period Class)

59. Plaintiff incorporates all paragraphs above as though fully set forth herein.

60. At all times relevant to this Complaint, Plaintiff and the Meal Period Class were hourly non-exempt employees of Defendants, covered by Labor Code sections 512 and 226.7 and the Wage Order.

61. California law requires an employer to authorize or permit an employee an uninterrupted meal period of no less than thirty (30) minutes in which the employee is relieved of all duties and the employer relinquishes control over the employee's activities no later than the end of the employee's fifth hour of work and a second meal period no later than the employee's tenth hour of work. Labor Code sections 226.7, 512; Wage Order 5, §11; *Brinker Rest. Corp. v.*

1 *Super Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004. If the employer requires the employee to remain at
 2 the work site or facility during the meal period, the meal period must be paid. This is true even
 3 where the employee is relieved of all work duties during the meal period. *Bono Enterprises, Inc. v.*
 4 *Bradshaw* (1995) 32 Cal.App.4th 968. Labor Code section 226.7 provides that if an employee
 5 does not receive a required meal or rest period that “the employer shall pay the employee one
 6 additional hour of pay at the employee’s regular rate of compensation for each work day that the
 7 meal or rest period is not provided.”

8 62. In this case, Plaintiff and the Meal Period Class worked shifts long enough to
 9 entitle them to meal periods under California law. Nevertheless, Defendants employed policies,
 10 practices, and/or procedures that resulted in their failure to authorize or permit meal periods to
 11 Plaintiff and the Meal Period Class of no less than thirty (30) minutes for each five-hour period of
 12 work as required by law. Such policies, practices, and/or procedures included, but were not
 13 limited to, pressuring and/or requiring Plaintiff and the Meal Period Class to work without
 14 receiving meal periods. Furthermore, when Defendants did provide meal periods to Plaintiff and
 15 Meal Period Class, they were frequently interrupted, untimely, taken while performing work-
 16 related tasks, and/or shorter than thirty (30) minutes in violation of California law.

17 63. Additionally, Defendants failed to pay Plaintiff and the Meal Period Class one (1)
 18 hour of pay at their regular rate of pay for each workday they did not receive all legally required
 19 and legally compliant meal periods. Defendants lacked a policy and procedure for compensating
 20 Plaintiff and the Meal Period Class with premium wages when they did not receive all legally
 21 required and legally compliant meal periods.

22 64. Defendants’ unlawful conduct alleged herein occurred in the course of employment
 23 of Plaintiff and the Meal Period Class and such conduct has continued through the filing of this
 24 Complaint.

25 65. Because Defendants failed to provide employees with meal periods in compliance
 26 with the law, Defendants are liable to Plaintiff and the Meal Period Class for one (1) hour of
 27 additional pay at the regular rate of compensation for each workday that Defendants did not
 28 provide all legally required and legally compliant meal periods, pursuant to Labor Code section

1 226.7 and the Wage Order.

2 66. Plaintiff, on behalf of himself and the Meal Period Class, seeks damages and all
 3 other relief allowable, including a meal period premium wage for each workday Defendants failed
 4 to provide all legally required and legally compliant meal periods, plus pre-judgment interest.

5 **FOURTH CAUSE OF ACTION**

6 **FAILURE TO AUTHORIZE OR PERMIT REQUIRED REST PERIODS IN VIOLATION**
 7 **OF LABOR CODE SECTION 226.7**

8 **(Against All Defendants by Plaintiff and the Rest Period Class)**

9 67. Plaintiff incorporates all paragraphs above as though fully set forth herein.

10 68. At all times relevant to this Complaint, Plaintiff and the Rest Period Class were
 11 employees of Defendants, covered by Labor Code section 226.7 and Wage Order 5.

12 69. California law requires that “[e]very employer shall authorize and permit all
 13 employees to take rest periods, which insofar as practicable shall be in the middle of each work
 14 period. The authorized rest period time shall be based on the total hours worked daily at the rate of
 15 ten (10) minutes net rest time per four (4) hours or major fraction thereof....” Wage Order 5, §12.
 16 Employees are entitled to 10 minutes rest for shifts from three and one-half to six hours in length,
 17 20 minutes for shifts of more than six hours up to 10 hours, 30 minutes for shifts of more than 10
 18 hours up to 14 hours, and so on.” *Brinker Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53
 19 Cal.4th 1004, 1029; Labor Code §226.7. Additionally, the rest period requirement “obligates
 20 employers to permit – and authorizes employees to take – off-duty rest periods.” *Augustus v. ABM*
 21 *Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. That is, during rest periods employers must
 22 relieve employees of all duties and relinquish control over how employees spend their time. *Id.* If
 23 an employer fails to provide an employee a rest period in accordance with the applicable
 24 provisions of this Order, the employer shall pay the employee one (1) hour of pay at the
 25 employee’s regular rate of compensation for each work day that the rest period is not provided.”
 26 Wage Order 5, §12; Labor Code §226.7.

27 70. In this case, Plaintiff and the Rest Period Class regularly worked shifts of more
 28 than three-and-a-half (3.5) hours. Nevertheless, Defendants employed policies, practices, and/or

procedures that resulted in their failure to authorize or permit all legally required and compliant rest periods to Plaintiff and the Rest Period Class. Such policies, practices, and/or procedures included, but were not limited to, pressuring and/or requiring Plaintiff and the Rest Period Class to work without receiving rest periods. Furthermore, when Defendants did provide meal periods to Plaintiff and the Rest Period Class, they were frequently interrupted, untimely, taken while performing work-related tasks, and/or shorter than ten (10) minutes in violation of California law.

71. Additionally, Defendants failed to pay Plaintiff and the Rest Period Class one (1) hour of pay at their regular rate of pay for each workday they did not receive all legally required and legally compliant rest periods. Defendants lacked a policy and procedure for compensating Plaintiff and the Rest Period Class with premium wages when they did not receive all legally required and legally compliant rest periods.

72. Defendants' unlawful conduct alleged herein occurred in the course of employment of Plaintiff and the Rest Period Class and such conduct has continued through the filing of this Complaint.

73. Because Defendants failed to provide employees with rest periods in compliance with the law, Defendants are liable to Plaintiff and the Rest Period Class for one (1) hour of additional pay at the regular rate of compensation for each workday that Defendants did not provide all legally required and legally compliant rest periods, pursuant to Labor Code section 226.7 and the Wage Order.

74. Plaintiff, on behalf of himself and the Rest Period Class, seeks damages and all other relief allowable, including a rest period premium wage for each workday Defendants failed to provide all legally required and legally compliant rest periods, plus pre-judgment interest.

FIFTH CAUSE OF ACTION

**FAILURE TO PROVIDE COMPLETE AND ACCURATE WAGE STATEMENTS IN
VIOLATION OF LABOR CODE SECTION 226**

(Against All Defendants by Plaintiff and the Wage Statement Class)

27 ||| 75. Plaintiff incorporates all paragraphs above as though fully set forth herein.

28 ||| 76. At all times relevant to this Complaint, Plaintiff and the Wage Statement Class

1 were hourly, non-exempt employees of Defendants, covered by Labor Code section 226.

2 77. Pursuant to Labor Code section 226, subdivision (a), Plaintiff and the Wage
3 Statement Class were entitled to receive, semimonthly or at the time of each payment of wages, an
4 itemized wage statement accurately stating the following:

5 (1) gross wages earned, (2) total hours worked by the employee, except for any
6 employee whose compensation is solely based on a salary and who is exempt from
7 payment of overtime under subdivision (a) of Section 515 or any applicable order of
8 the Industrial Welfare Commission, (3) the number of piece-rate units earned and
9 any applicable piece rate if the employee is paid on a piece-rate basis, (4) all
10 deductions, provided that all deductions made on written orders of the employee
11 may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive
12 dates of the period for which the employee is paid, (7) the name of the employee
13 and his or her social security number, except that by January 1, 2008, only the last
14 four digits of his or her social security number or an employee identification number
15 other than a social security number may be shown on the itemized statement, (8) the
16 name and address of the legal entity that is the employer, and (9) all applicable
17 hourly rates in effect during the pay period and the corresponding number of hours
18 worked at each hourly rate by the employee.

19 78. Defendants committed direct violations of Labor Code section 226, through their
20 policies, practices, and/or procedures, including, but not limited to failing to provide Plaintiff and
21 the Wage Statement Class with accurate itemized wage statements showing the rate at which
22 premium wages were paid.

23 79. Further, and as a derivative of Defendants' claims above, Plaintiff alleges that
24 Defendants failed to provide accurate wage and hour statements to him and the Wage Statement
25 Class who were subject to Defendants' control for uncompensated time and who did not receive
26 all their earned wages (including minimum wages, overtime wages, meal period premium wages,
27 and/or rest period premium wages), in violation of Labor Code section 226.

28 80. Defendants provided Plaintiff and the Wage Statement Class with itemized
29 statements which stated inaccurate information including, but not limited to, the number of hours
30 worked, the gross wages earned, and the net wages earned.

31 81. Defendants' failure to provide Plaintiff and the Wage Statement Class with
32 accurate wage statements was knowing and intentional. Defendants had the ability to provide
33 Plaintiff and the Wage Statement Class with accurate wage statements but intentionally provided
34 wage statements they knew were not accurate. Defendants knowingly and intentionally put in

1 place practices which deprived employees of wages and resulted in Defendants knowingly and
 2 intentionally providing inaccurate wage statements. These practices included Defendants' failure
 3 to include all hours worked and all wages due.

4 82. As a result of Defendants' unlawful conduct, Plaintiff and the Wage Statement
 5 Class have suffered injury. The absence of accurate information on their wage statements has
 6 prevented earlier challenges to Defendants' unlawful pay practices, will require discovery and
 7 mathematical computations to determine the amount of wages owed, and will cause difficulty and
 8 expense in attempting to reconstruct time and pay records. Defendants' conduct led to the
 9 submission of inaccurate information about wages and amounts deducted from wages to state and
 10 federal government agencies. As a result, Plaintiff and the Wage Statement Class are required to
 11 participate in this lawsuit and create more difficulty and expense for Plaintiff and the Wage
 12 Statement Class from having to reconstruct time and pay records than if Defendants had complied
 13 with their legal obligations.

14 83. Pursuant to Labor Code section 226(e), Plaintiff and the Wage Statement Class are
 15 entitled to recover fifty (50) dollars per employee for the initial pay period in which a section 226
 16 violation occurred and one hundred dollars per employee per violation for each subsequent pay
 17 period, not to exceed an aggregate penalty of four thousand (4,000) dollars per employee.

18 84. Pursuant to Labor Code section 226(h), Plaintiff and the Wage Statement Class are
 19 entitled to bring an action for injunctive relief to ensure Defendants' compliance with Labor Code
 20 section 226(a). Injunctive relief is warranted because Defendants continue to provide currently
 21 employed Wage Statement Class members with inaccurate wage statements in violation of Labor
 22 Code section 226(a) and currently employed Wage Statement Class members have no adequate
 23 legal remedy for the continuing injuries that will be suffered as a result of Defendants' ongoing
 24 unlawful conduct. Injunctive relief is the only remedy available for ensuring Defendants'
 25 compliance with Labor Code section 226(a).

26 85. Pursuant to Labor Code sections 226(e) and 226(h), Plaintiff and the Wage
 27 Statement Class are entitled to recover the full amount of penalties due under Section 226(e),
 28 reasonable attorneys' fees, and costs of suit.

SIXTH CAUSE OF ACTION

**FAILURE TO PAY ALL WAGES TIMELY UPON SEPARATION OF EMPLOYMENT IN
VIOLATION OF LABOR CODE SECTIONS 201, 202, AND 203**

(Against All Defendants by Plaintiff and the Waiting Time Class)

86. Plaintiff incorporates all paragraphs above as though fully set forth herein.

87. At all times relevant to this Complaint, Plaintiff and the Waiting Time Class were employees of Defendants, covered by Labor Code sections 201 and 202.

88. An employer is required to pay all unpaid wages timely after an employee's employment ends. The wages are due immediately upon termination or within seventy-two (72) hours of resignation. Labor Code §§201, 202. If an employee gave seventy-two (72) hours previous notice, they were entitled to payment of all wages earned and unpaid at the time of resignation. *Id.*

89. Defendants failed to pay Plaintiff and on information and belief, the Waiting Time Class, with all wages earned and unpaid prior to separation of employment, in accordance with either Labor Code section 201 or 202. Plaintiff is informed and believes and thereon alleges that at all relevant times within the limitations period applicable to this cause of action, Defendants maintained a policy or practice of not paying hourly employees all earned wages timely upon separation of employment.

90. Defendants' failure to pay Plaintiff and the Waiting Time Class with all wages earned prior to separation of employment timely in accordance with Labor Code sections 201 and 202 was willful. Defendants had the ability to pay all wages earned by hourly workers prior to separation of employment in accordance with Labor Code sections 201 and 202, but intentionally adopted policies or practices incompatible with the requirements of Labor Code sections 201 and 202. Defendants' practices include failing to pay at least minimum wage for all time worked, overtime wages for overtime hours worked, meal period premium wages, and/or rest period premium wages. When Defendants failed to pay Plaintiff and the Waiting Time Class all earned wages timely upon separation of employment, they knew what they were doing and intended to do what they did.

1 91. Pursuant to either Labor Code section 201 or 202, Plaintiff and the Waiting Time
2 Class are entitled to all wages earned prior to separation of employment that Defendants have yet
3 to pay them.

4. Pursuant to Labor Code section 203, Plaintiff and the Waiting Time Class are
5. entitled to continuation of their wages, from the day their earned and unpaid wages were due until
6. paid, up to a maximum of thirty (30) days.

7 93. As a result of Defendants' conduct, Plaintiff and the Waiting Time Class have
8 suffered damages in an amount, subject to proof, to the extent they were not paid for all wages
9 earned prior to separation.

10 94. As a result of Defendants' conduct, Plaintiff and the Waiting Time Class have
11 suffered damages in an amount, subject to proof, to the extent they were not paid all continuation
12 wages owed under Labor Code section 203.

13 95. Plaintiff and the Waiting Time Class are entitled to recover the full amount of their
14 unpaid wages, continuation wages under Labor Code section 203, and interest thereon.

SEVENTH CAUSE OF ACTION

**UNFAIR BUSINESS PRACTICES, IN VIOLATION OF BUSINESS AND PROFESSIONS
CODE SECTION 17200, et seq.**

(Against All Defendants by Plaintiff and the California Class)

19 96. Plaintiff incorporates all paragraphs above as though fully set forth herein.

20 97. The unlawful conduct of Defendants alleged herein constitutes unfair competition
21 within the meaning of Business and Professions Code section 17200. This unfair conduct includes
22 Defendants' use of policies, practices, and/or procedures which resulted in: failure to pay
23 employees at least at the minimum wage rate for all hours which they worked; failure to pay
24 overtime wages for all overtime hours worked; failure to authorize or permit all legally required
25 and compliant meal periods or pay meal period premium wages; failure to authorize or permit all
26 legally required and compliant rest periods or pay rest period premium wages; failure to provide
27 accurate wage and hour statements; and failure to timely pay all wages due upon separation of
28 employment. Due to their unfair and unlawful business practices in violation of the Labor Code,

1 Defendants have gained a competitive advantage over other comparable companies doing business
2 in the State of California that comply with their obligations to pay minimum wages for all hours
3 worked; authorize or permit all legally required and compliant meal periods and/or pay meal
4 period premium wages; authorize or permit all legally required and compliant rest periods and/or
5 pay rest period premium wages; provide accurate wage and hour statements; and timely pay all
6 wages due upon separation of employment.

7 98. As a result of Defendants' unfair competition as alleged herein, Plaintiff and the
8 California Class have suffered injury in fact and lost money or property, as described in more
9 detail above.

10 99. Pursuant to Business and Professions Code section 17203, Plaintiff and the
11 California Class are entitled to restitution of all wages and other monies rightfully belonging to
12 them that Defendants failed to pay and wrongfully retained by means of their unlawful and unfair
13 business practices. Plaintiff also seeks an injunction against Defendants on behalf of the California
14 Class enjoining Defendants, and any and all persons acting in concert with them, from engaging in
15 each of the unlawful policies, practices, and/or procedures set forth herein.

PRAAYER FOR RELIEF

17 WHEREFORE, PLAINTIFF ON HIS OWN BEHALF AND ON BEHALF OF
18 THOSE SIMILARLY SITUATED, PRAYS AS FOLLOWS:

19 **ON THE FIRST, SECOND, THIRD, FOURTH, FIFTH, SIXTH AND SEVENTH**
20 **CAUSES OF ACTION:**

21 1. That the Court determine that this action may be maintained as a class action (for
22 the entire California Class and/or any and all of the specified sub-classes) pursuant to Code of
23 Civil Procedure section 382 and any other applicable law;

24 2. That the named Plaintiff be designated as a class representative for the California
25 Class (and all sub-classes thereof);

26 3. For a declaratory judgment that the policies, practices, and/or procedures
27 complained herein are unlawful; and

4 For an injunction against Defendants enjoining them and any and all persons

1 acting in concert with them, from engaging in each of the unlawful policies, practices, and/or
 2 procedures set forth herein.

3 **ON THE FIRST CAUSE OF ACTION:**

- 4 1. That Defendants be found to have violated the minimum wage provisions of the
 5 Labor Code and the IWC Wage Order as to Plaintiff and the Minimum Wage Class;
 6 2. For damages, according to proof, including but not limited to unpaid wages;
 7 3. For any and all legally applicable penalties;
 8 4. For liquidated damages pursuant to Labor Code section 1194.2;
 9 5. For pre-judgment interest, including but not limited to that recoverable under Labor
 10 Code section 1194, and post-judgment interest;
 11 6. For attorneys' fees and costs of suit, including but not limited to that recoverable
 12 under Labor Code section 1194;
 13 7. For pre-judgment interest, including but not limited to that recoverable under Labor
 14 Code section 218.6, and post-judgment interest; and,
 15 8. For such other further relief, in law and/or equity, as the Court deems just or
 16 appropriate.

17 **ON THE SECOND CAUSE OF ACTION:**

- 18 1. That Defendants be found to have violated the overtime provisions of the Labor
 19 Code and the IWC Wage Order as to Plaintiff and the Overtime Class;
 20 2. For damages, according to proof, including but not limited to unpaid wages;
 21 3. For any and all legally applicable penalties;
 22 4. For pre-judgment interest, including but not limited to that recoverable under Labor
 23 Code section 1194, and post-judgment interest;
 24 5. For attorneys' fees and costs of suit, including but not limited to that recoverable
 25 under Labor Code section 1194; and
 26 6. For such other further relief, in law and/or equity, as the Court deems just or
 27 appropriate.

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ON THE THIRD CAUSE OF ACTION:

- 2 .
- 3 1. That Defendants be found to have violated the meal period provisions of the Labor
Code and the IWC Wage Order as to Plaintiff and the Meal Period Class;
- 4 2. For damages, according to proof, including unpaid premium wages;
- 5 3. For any and all legally applicable penalties;
- 6 4. For pre-judgment interest, including but not limited to that recoverable under Labor
Code section 218.6, and post-judgment interest; and
- 7
- 8 5. For such other further relief, in law and/or equity, as the Court deems just or
9 appropriate.

10

ON THE FOURTH CAUSE OF ACTION:

- 11 .
- 12 1. That Defendants be found to have violated the rest period provisions of the Labor
Code and the IWC Wage Order as to Plaintiff and the Rest Period Class;
- 13 2. For damages, according to proof, including unpaid premium wages;
- 14 3. For any and all legally applicable penalties;
- 15 4. For pre-judgment interest, including but not limited to that recoverable under Labor
Code section 218.6, and post-judgment interest; and
- 16
- 17 5. For such other further relief, in law and/or equity, as the Court deems just or
18 appropriate.

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ON THE FIFTH CAUSE OF ACTION:

- 20 .
- 21 1. That Defendants be found to have violated the provisions of the Labor Code
regarding accurate itemized paystubs as to Plaintiff and the Wage Statement Class;
- 22 2. For damages and/or penalties, according to proof, including damages and/or
statutory penalties under Labor Code section 226, subdivision (e), and any other legally applicable
damages or penalties;
- 23
- 24 3. For pre-judgment interest and post-judgment interest;
- 25
- 26 4. For an injunction against Defendants enjoining them, and any and all persons
acting in concert with them, from engaging in violations of Labor Code section 226(a);
- 27
- 28 5. For attorneys' fees and costs of suit, including but not limited to that recoverable

under Labor Code section 226, subdivision (e); and,

6. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

ON THE SIXTH CAUSE OF ACTION:

1. That Defendants be found to have violated the provisions of the Labor Code regarding payment of all unpaid wages due upon resignation or termination as to Plaintiff and the Waiting Time Class;

2. For damages and/or penalties, according to proof, including damages and/or statutory penalties under Labor Code section 203 and any other legally applicable damages or penalties;

3. For pre-judgment interest, including under Labor Code section 218.6, and post-judgment interest; and,

4. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

ON THE SEVENTH CAUSE OF ACTION:

1. That Defendants be found to have violated Business and Professions Code sections 17200, *et seq.*, for the conduct alleged herein as to the California Class;

2: A declaratory judgment that the practices complained herein are unlawful;

3. An injunction against Defendants enjoining them, and any and all persons acting in concert with them, from engaging in each of the unlawful practices, policies and patterns set forth herein;

4. For restitution to the full extent permitted by law; and

5. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

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1 Dated: September 16, 2021
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**LAVI & EBRAHIMIAN, LLP
OTKUPMAN LAW FIRM, A LAW CORPORATION**

By: _____

Joseph Lavi, Esq.
Vincent C. Granberry, Esq.
Anwar D. Burton, Esq.
Roman Otkupman, Esq.
Attorneys for Plaintiff ADRIAN YEPEZ,
on behalf of himself and others similarly situated

DEMAND FOR JURY TRIAL

10 Plaintiff ADRIAN YEPEZ demands a trial by jury for himself and the California Class on
11 all claims so triable.
12

13 Dated: September 16, 2021
14
15

**LAVI & EBRAHIMIAN, LLP
OTKUPMAN LAW FIRM, A LAW CORPORATION**

16 By: _____

Joseph Lavi, Esq.
Vincent C. Granberry, Esq.
Anwar D. Burton, Esq.
Roman Otkupman, Esq.
Attorneys for Plaintiff ADRIAN YEPEZ,
on behalf of himself and others similarly situated

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FOR COURT USE ONLY

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

Roman Otkupman, Esq. Bar No. 249423

Otkupman Law Firm, ALC

5743 Corsa Ave., Suite 123

Westlake Village, CA 91362

TELEPHONE NO.: (818) 293-5623

FAX NO.: (888) 850-1310

ATTORNEY FOR (Name): Plaintiff Adrian Yepez

SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Mateo

STREET ADDRESS: 400 County Center, Room A

MAILING ADDRESS:

-CITY AND ZIP CODE: Redwood City, CA 94063

BRANCH NAME: Southern Branch: Hall of Justice and Records

Electronically
FILEDby Superior Court of California, County of San Mateo
ON 9/16/2021By /s/ Anthony Berini
Deputy Clerk

CASE NAME:

Adrian Yepez v. Tastes On The Fly San Francisco, LLC

CIVIL CASE COVER SHEET

Unlimited Limited
 (Amount demanded exceeds \$25,000) (Amount demanded is \$25,000 or less)

Complex Case Designation

Counter Joinder

Filed with first appearance by defendant
(Cal. Rules of Court, rule 3.402)

CASE NUMBER:

21-CIV-05010

JUDGE:

DEPT:

Items 1–6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort

- Auto (22)
 Uninsured motorist (46)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

- Asbestos (04)
 Product liability (24)
 Medical malpractice (45)
 Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort

- Business tort/unfair business practice (07)
 Civil rights (08)
 Defamation (13)
 Fraud (16)
 Intellectual property (19)
 Professional negligence (25)
 Other non-PI/PD/WD tort (35)

Employment

- Wrongful termination (36)
 Other employment (15)

Contract

- Breach of contract/warranty (06)
 Rule 3.740 collections (09)
 Other collections (09)
 Insurance coverage (18)
 Other contract (37)

Real Property

- Eminent domain/inverse condemnation (14)
 Wrongful eviction (33)
 Other real property (26)

Unlawful Detainer

- Commercial (31)
 Residential (32)
 Drugs (38)

Judicial Review

- Asset forfeiture (05)
 Petition re: arbitration award (11)
 Writ of mandate (02)
 Other judicial review (39)

Provisionally Complex Civil Litigation

(Cal. Rules of Court, rules 3.400–3.403)

- Antitrust/Trade regulation (03)
 Construction defect (10)
 Mass tort (40)
 Securities litigation (28)
 Environmental/Toxic tort (30)
 Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment

- Enforcement of judgment (20)

Miscellaneous Civil Complaint

- RICO (27)
 Other complaint (not specified above) (42)

Miscellaneous Civil Petition

- Partnership and corporate governance (21)
 Other petition (not specified above) (43)

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

- a. Large number of separately represented parties d. Large number of witnesses
 b. Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
 c. Substantial amount of documentary evidence f. Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive

4. Number of causes of action (specify): Seven (7)

5. This case is is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: September 16, 2021

Roman Otkupman

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

Auto Tort

- Auto (22)—Personal Injury/Property Damage/Wrongful Death
- Uninsured Motorist (46) (*If the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

- Asbestos (04)
 - Asbestos Property Damage
 - Asbestos Personal Injury/Wrongful Death
- Product Liability (*not asbestos or toxic/environmental*) (24)
- Medical Malpractice (45)
 - Medical Malpractice—Physicians & Surgeons
 - Other Professional Health Care Malpractice
- Other PI/PD/WD (23)
 - Premises Liability (e.g., slip and fall)
 - Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
 - Intentional Infliction of Emotional Distress
 - Negligent Infliction of Emotional Distress
 - Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

- Business Tort/Unfair Business Practice (07)
- Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
- Defamation (e.g., slander, libel) (13)
- Fraud (16)
- Intellectual Property (19)
- Professional Negligence (25)
 - Legal Malpractice
 - Other Professional Malpractice (*not medical or legal*)
- Other Non-PI/PD/WD Tort (35)

Employment

- Wrongful Termination (36)
- Other Employment (15)

CASE TYPES AND EXAMPLES**Contract**

- Breach of Contract/Warranty (06)
 - Breach of Rental/Lease
 - Contract (*not unlawful detainer or wrongful eviction*)
 - Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
 - Negligent Breach of Contract/Warranty
 - Other Breach of Contract/Warranty
- Collections (e.g., money owed, open book accounts) (09)
 - Collection Case—Seller Plaintiff
 - Other Promissory Note/Collections Case
- Insurance Coverage (*not provisionally complex*) (18)
 - Auto Subrogation
 - Other Coverage
- Other Contract (37)
 - Contractual Fraud
 - Other Contract Dispute

Real Property

- Eminent Domain/Inverse Condemnation (14)
- Wrongful Eviction (33)
- Other Real Property (e.g., quiet title) (26)
 - Writ of Possession of Real Property
 - Mortgage Foreclosure
 - Quiet Title
 - Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

- Commercial (31)
- Residential (32)
- Drugs (38) (*If the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

- Asset Forfeiture (05)
- Petition Re: Arbitration Award (11)
- Writ of Mandate (02)
 - Writ—Administrative Mandamus
 - Writ—Mandamus on Limited Court Case Matter
 - Writ—Other Limited Court Case Review
- Other Judicial Review (39)
 - Review of Health Officer Order
 - Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

- Antitrust/Trade Regulation (03)
- Construction Defect (10)
- Claims Involving Mass Tort (40)
- Securities Litigation (28)
- Environmental/Toxic Tort (30)
- Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

- Enforcement of Judgment (20)
 - Abstract of Judgment (Out of County)
 - Confession of Judgment (*non-domestic relations*)
 - Sister State Judgment
 - Administrative Agency Award (*not unpaid taxes*)
 - Petition/Certification of Entry of Judgment on Unpaid Taxes
 - Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

- RICO (27)
- Other Complaint (*not specified above*) (42)
 - Declaratory Relief Only
 - Injunctive Relief Only (*non-harassment*)
 - Mechanics Lien
 - Other Commercial Complaint Case (*non-tort/non-complex*)
 - Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

- Partnership and Corporate Governance (21)
- Other Petition (*not specified above*) (43)
 - Civil Harassment
 - Workplace Violence
 - Elder/Dependent Adult Abuse
 - Election Contest
 - Petition for Name Change
 - Petition for Relief From Late Claim
 - Other Civil Petition

SUPERIOR COURT OF SAN MATEO COUNTY

Civil Division

400 County Center, 1st Floor, Room A Redwood City, CA 94063
 (650) 261-5100
www.sanmateocourt.org

FOR COURT USE ONLY

FILED

SAN MATEO COUNTY

9/16/2021

Clerk of the Superior Court

/s/ Anthony Berini

DEPUTY CLERK

PETITIONER/PLAINTIFF: ADRIAN YEPEZ, ON BEHALF OF HIMSELF AND OTHER SIMILARLY SITUATED

RESPONDENT/DEFENDANT: TASTES ON THE FLY SAN FRANCISCO, LLC; DOES 1 TO 100, INCLUSIVE

**NOTICE OF ASSIGNMENT FOR ALL PURPOSES (CIVIL) AND
NOTICE OF CASE MANAGEMENT CONFERENCE**

CASE NUMBER:
21-CIV-05010

By order of the Presiding Judge pursuant to San Mateo County Superior Court Local Rule 3.200(a) the above entitled matter is assigned for all purposes to: Danny Y. Chou in Department 22.

An Initial Case Management Conference is set before the Civil Commissioner, as follows:

DATE: 1/18/2022

TIME: 10:00 AM

LOCATION: 1050 Mission Road, South San Francisco, CA 94080

APPEARANCES SHALL BE REMOTE ONLY. Please visit our website at [for information on remote appearances:](http://www.sanmateocourt.org/general_info/remote_appearance.php)

[https://www.sanmateocourt.org/general_info/remote_appearance.php](http://www.sanmateocourt.org/general_info/remote_appearance.php)

ASSIGNED DEPARTMENT INFORMATION

To schedule a Law and Motion Hearing, please see Local Rule 3.402, or visit the assigned Judicial Officer's webpage at: www.sanmateocourt.org/civiljudges.

Contact information for your assigned department is as follows:

Judicial Officer	Department Phone	Department E-mail
Danny Y. Chou	650-261-5122	Dept22@sanmateocourt.org

CASE MANAGEMENT CONFERENCE INFORMATION

You are hereby given notice of your Initial Case Management Conference. The date, time and department are noted above.

1. In accordance with applicable California Rules of the Court and Local Rules, you are hereby ordered to:
 - a) Serve all named defendants and file proofs of service on those defendants with the court within 60-days of filing the complaint (CRC 3.110(b); Local Rule 3.804).
 - b) Serve a copy of this Notice, blank form of the Case Management Statement and ADR Information Package on all named parties in this action (Local Rule 3.804(a)). Documents are available online under the CIVIL CMC Packet section at: http://sanmateocourt.org/court_divisions/civil/
 - c) File and serve a completed Case Management Statement at least 15 days before the Case Management Conference (CRC 3.725; Local Rule 3.805(c)). Failure to do so may result in monetary sanctions or the continuance of the CMC.

- d) Meet and confer, in person or by telephone, to consider each of the issues identified in CRC 3.724 no later than 30 days before the date set for the Case Management Conference (Local Rule 3.805(b)).
2. Parties may proceed to an Appropriate Dispute Resolution process ("ADR") by filing a *Stipulation and Order to ADR* (Local Form ADR-CV-1). File and serve the completed *Stipulation and Order to ADR* form at least 12 days prior to the Case Management Conference (Local Rule 3.805(f)). You may find this form and information regarding the Civil ADR Program online at http://sanmateocourt.org/court_divisions/adr/civil/

For additional information, you may visit the Judicial officer's webpage at: www.sanmateocourt.org/civiljudges

CLERK'S CERTIFICATE OF SERVICE

I hereby certify that I am the clerk of this Court, not a party to this cause; that I served a copy of this notice on the below date, by hand by electronic service to the parties or their counsel of record at the email addresses set forth below and shown by the records of this Court or by placing a copy thereof in separate sealed envelopes addressed to the address shown by the records of this Court, and by then sealing said envelopes and depositing same, with postage fully pre-paid thereon, in the United States Mail at Redwood City, California.

Date: 9/16/2021

Neal I Taniguchi, Court Executive Officer/Clerk

By: /s/ Anthony Berini

Anthony Berini, Deputy Clerk

Notice being served on:

ROMAN OTKUPMAN
OTKUPMAN LAW FIRM
5743 CORSA AVE SUITE 123
WESTLAKE VILLAGE CA 91362

PROOF OF SERVICE

I am over the age of eighteen years and not a party to the within entitled action. My business address is 425 California Street, Suite 2100, San Francisco, CA 94104.

On October 8, 2021, I served a copy of the attached:

**1. DEFENDANT TASTES OPN THE FLY SLO, LLC, OF REMOVAL OF ACTION
UNDER 28 U.S.C. §§ 1331, 1441(a) (FEDERAL QUESTION)**

on the interested parties in said action, by delivering a true copy addressed as follows:

Roman Oktupman Otkupman Law Firm, ALC 28632 Roadside Dr., Suite 203 Agoura Hills, CA 91301 roman@ofla.com	Joseph Lavi 8889 Olympic Blvd., Suite 200 Beverly Hills, CA 90211 jlavi@lelawfirm.com
Vincent C. Granberry 8889 Olympic Blvd., Suite 200 Beverly Hills, CA 90211 vgranberry@lelawfirm.com	Kevin Joseph Farnan 8889 Olympic Blvd., Suite 200 Beverly Hills, CA 90211 kfarnan@lelawfirm.com

(BY OVERNIGHT COURIER) I caused each envelope to be sent via Federal Express.

(BY MAIL) I placed a true and correct copy thereof in a sealed envelope with First Class postage thereon fully prepaid to the address(es) above, and deposited same in the United States Mail at San Francisco, California.

(BY PERSONAL DELIVERY) I personally delivered a true and correct copy thereof by handing a sealed envelope, addressed to the person(s) at the address(s) set forth above, by leaving the envelope, which was clearly labeled to identify the attorneys being served, with the receptionist or other person apparently in charge at the addresses set forth above.

_____ (BY TELECOPIER) I personally transmitted by facsimile electronic transmission each document to the following number(s):

(BY ELECTRONIC TRANSMISSION) I personally transmitted by electronic transmission to the electronic service address at or through which a party or other person has authorized electronic service.

1 _____ (BY CERTIFIED MAIL) I placed a true and correct copy thereof in a sealed envelope
2 with First Class postage thereon fully prepaid by certified mail, requiring return receipt, to the
2 address(es) above, and deposited same in the United States Mail at San Francisco, California.

3
4 Executed on October 8, 2021 at San Francisco, California.
5 I declare under penalty of perjury that the foregoing is true and correct.
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Gwen Wagner

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